

November 21, 2006

**OFFICE OF THE HEARING EXAMINER  
KING COUNTY, WASHINGTON**

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**REPORT AND DECISION**

SUBJECT: Department of Development and Environmental Services File No. **E05G0302**

**LELAND O. GAYLES SR.**  
Code Enforcement Appeal

Location: Tax parcel no. 172206-9089, QSTR: SE 17 22 06 PP ACT 39925839  
39925896 MH S 132 FT OF E ½ OF SE ¼ OF NE ¼ OF SE ¼ LESS  
C/M RGTS (located in the southeast corner of Section 17, T22N, R6E,  
W.M., generally north of southeast 240th Street and north of SR-18 just  
west of the City of Maple Valley)

Appellant: **Leland O. Gayles Sr.**  
18207 261 Court Southeast  
Covington, Washington 98042  
Telephone: (425) 443-8034

King County: Department of Development and Environmental Services,  
*represented by* **Holly Sawin**  
900 Oakesdale Avenue Southwest  
Renton, Washington 98055-1219  
Telephone: (206) 296-6772  
Facsimile: (206) 296-6604

**SUMMARY OF DECISION/RECOMMENDATION:**

|  |   |
|--|---|
| Department's Preliminary Recommendation: | Deny appeal                             |
| Department's Final Recommendation:       | Deny appeal; extend compliance schedule |
| Examiner's Decision:                     | Deny appeal, extend compliance schedule |

**EXAMINER PROCEEDINGS:**

|                          |                    |
|--------------------------|--------------------|
| Hearing Opened:          | September 14, 2006 |
| Hearing Closed:          | September 14, 2006 |
| Hearing Record Reopened: | October 23, 2006   |
| Hearing Closed:          | November 1, 2006   |

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

**FINDINGS, CONCLUSIONS & DECISION:** Having reviewed the record in this matter, the Examiner now makes and enters the following:

**FINDINGS OF FACT:**

1. On July 18, 2006, the King County Department of Development and Environmental Services (DDES) issued a Notice and Order to Leland and Brenda Gayles that alleged code violations at property identified as parcel no. 172206-9089, located in the southeast corner of Section 17, T22N, R6E, W.M., which places the site north of southeast 240th Street and north of SR-18 just west of the City of Maple Valley at the approximate longitudinal coordinate of 208th Avenue Southeast. The property is 1.02 acres in size and zoned RA-5. The Notice and Order cited the Gayles and the property with one violation of county code:

- a) Clearing and grading within wetland and wetland buffer without the required permits and approvals, citing the violated code sections.

Such violation was required by the Notice and Order to be corrected by application for and obtainment of a clearing/grading permit, which application was required to include a wetland delineation and classification conducted under applicable specifications, with complete application submittal no later than September 18, 2006. In the meantime the cited parties were required to implement approved erosion, sedimentation and drainage control measures by July 25, 2006.

2. Leland O. Gayles Sr. filed a timely appeal of the Notice and Order, which appeal does not contest the charges of violation but asserts that he needs more time to hire the required professionals and get the documentation necessary to meet the specified conditions (of the Notice and Order).
3. Mr. Gayles informed DDES, which communication was forwarded to the Hearing Examiner, that he would not be appearing at the hearing on the appeal.
4. DDES made a *prima facie* case supporting the charge of violation with sufficient evidence and testimony to find that the charged violation had indeed occurred. DDES also related its communications the day of hearing with the Appellant's wetland consultant, who had visited the property and needed an additional 30-60 days to complete the necessary critical areas investigations. DDES accordingly recommended a 90-day compliance timeframe to complete and submit a clearing/grading permit application. Lastly, DDES testified that erosion and sedimentation control measures were no longer needed since the property had revegetated sufficiently.
5. Prior to the Examiner issuing a decision on the appeal after the September 14, 2006 hearing, DDES communicated with the Examiner's Office requesting that the compliance schedule be extended further than had been recommended at hearing, because of unexpected procedural and regulatory issues which have arisen in the Appellant's endeavors toward obtaining the clearing/grading permit. The hearing record was accordingly reopened on October 23, 2006 and closed November 1, 2006 to receive the request into the record and allow any responses to it.

## CONCLUSIONS:

1. As noted, the Appellant makes no disputation of the charge of violation, and merely requests more time to achieve the corrections required by the Notice and Order. DDES has concurred with a revised and extended compliance schedule, which is necessitated in part by the time taken up by the appeal but also is stipulated by DDES as necessary in what appears to be a cooperative and diligent effort toward achieving compliance.
2. The charge of the Notice and Order has essentially been proven on a *prima facie* basis by the preponderance of the evidence submitted into the record, and the appeal shall accordingly be denied except that the compliance schedule shall be revised as set forth below.

## DECISION:

The appeal is DENIED, except that the Notice and Order deadline for compliance is revised as stated in the following order.

## ORDER:

1. Apply for and obtain a clearing/grading permit, based in part on a wetland delineation and classification performed in conformity with applicable regulations and specifications. A complete clearing/grading permit application shall be submitted to the King County Land Use Services Division for review and approval *by no later than May 21, 2007*. DDES may in its discretion extend in writing the time period for application submittal of the permit, if DDES is convinced that the Appellant is pursuing in a diligent fashion all necessary reviews and approvals necessary for submittal of a complete permit application.
2. No penalties shall be assessed against Leland O. Gayles Sr. and Brenda Gayles and/or the property if the deadline stated within the above condition is met. If the deadline is not met, DDES may impose penalties against the Gayles and/or the property retroactive to the date of this order.

ORDERED this November 21, 2006.

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Peter T. Donahue  
King County Hearing Examiner

TRANSMITTED November 21, 2006 via certified mail to the following:

Leland & Brenda Gayles  
18207 – 261 Court Southeast  
Covington, Washington 98042

TRANSMITTED November 21, 2006, to the following parties and interested persons of record:

Leland & Brenda Gayles  
18207 - 261st Ct. SE  
Covington WA 98042

Deidre Andrus  
DDES/LUSD  
MS OAK-DE-0100

Elizabeth Deraitus  
DDES/LUSD  
MS OAK-DE-0100

Jo Horvath  
DDES/BSD  
MS OAK-DE-0100

Lamar Reed  
DDES/LUSD  
MS-OAK-DE-0100

Holly Sawin  
DDES/LUSD  
MS OAK-DE-0100

Toya Williams  
DDES/LUSD  
MS OAK-DE-0100

### **NOTICE OF RIGHT TO APPEAL**

Pursuant to Chapter 20.24, King County Code, the King County Council has directed that the Examiner make the final decision on behalf of the County regarding code enforcement appeals. The Examiner's decision shall be final and conclusive unless proceedings for review of the decision are properly commenced in Superior Court within twenty-one (21) days of issuance of the Examiner's decision. (The Land Use Petition Act defines the date on which a land use decision is issued by the Hearing Examiner as three days after a written decision is mailed.)

#### **MINUTES OF THE SEPTEMBER 14, 2006, PUBLIC HEARING AND REOPENED RECORD ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. E05G0302.**

Peter T. Donahue was the Hearing Examiner in this matter. Participating in the hearing was Holly Sawin representing the Department. There were no other participants in the proceeding.

The following Exhibits were offered and entered into the record:

- |               |   |
|---------------|---|
| Exhibit No. 1 | Department of Development and Environmental Services staff report for 9/14/06   |
| Exhibit No. 2 | Copy of Notice and Order issued July 18, 2006   |
| Exhibit No. 3 | Copy of Notice and Statement of Appeal, received August 2, 2006   |
| Exhibit No. 4 | Copies of codes cited in the Notice and Order   |
| Exhibit No. 5 | Photographs (a-c, color copies) of subject property   |
| Exhibit No. 6 | Critical Areas Designation letter dated December 12, 2005   |
| Exhibit No. 7 | October 23, 2006 Examiner Order reopening hearing record and attached DDES e-mail requesting extended compliance schedule |

PTD:gao  
E05G0302 RPT